LAWS OF MONTANA

Covering

Wholesaling Agricultural Products,
Itinerant Merchants Act,
Branding and Marking and Grading
Agricultural Products and
Advertising Same
Licensing Bean Dealers
Grading and Inspection of Beans

Issued by the
Division of Horticulture of the
Montana Department of Agriculture
Helena, Montana
July, 1939

J. T. Sparling,
Commissioner
Helena, Mont.

Geo. L. Knight, Chief
Division of Horticulture
Missoula, Mont.

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LAWS OF MONTANA

SECTIONS 2443.1-2443.16, INCLUSIVE.

Chapter 229 of Revised Statutes of 1935.

An Act Defining, Licensing and Regulating Dealers at Wholesale as Herein Defined; Defining the Words "Produce," "Person," and "Commissioner"; Outlining the Procedure to Obtain a License; Providing for the Date of Expiration of Licenses, the Amount, and the Posting Thereof; Fixing the Amount of Bonds and Defining the Conditions Thereof; Providing for Filing of Commission Schedules, the Keeping of Records and the Report to Shippers by Dealers; Providing for Appeals from Actions of the Commissioner and How Appeals May Be Taken; Providing for Handling Money Received from License Fees; Imposing Certain Duties and Conferring Certain Powers upon the Commissioner of Agriculture and Prescribing Penalties for Violation of This Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Sec. 2443.1. For the purpose of this Act any person who shall buy to sell at wholesale, or contract to buy to sell at wholesale, or who shall handle at wholesale for the purpose of resale, or who shall handle at wholesale on account of, or as agent for another, any produce as herein defined; shall be deemed a dealer at wholesale. Provided, that a trucker operating for hire under an M. R. C. License and not buying or selling any produce as herein defined, shall not come under the provisions of this Act. Provided fur-

ther, that the provisions of this Act shall not apply to dealers at retail.

Sec. 2443.2. No person shall engage in, or purport to be engaged in, or hold himself out as being engaged in the business of a dealer at wholesale, or as being a dealer at wholesale, as defined in this Act, unless he shall be licensed to carry on such business by the Commissioner. Provided, that the provisions of this Act shall not apply to a farmer or gardener selling his own products, but who shall whenever called upon to do so by an inspector furnish a sworn statement that the goods handled by him were actually grown by him, and the inspector is hereby authorized for the purposes of this Act to administer the oath.

Sec. 2443.3. a. The term "produce" as used in this Act shall mean and include the natural products of the farm, the natural products of the orchard, vineyard, garden and apiary, raw and manufactured; (except grains, dairy products, livestock, poultry and poultry products,) when handled for the purpose of resale.

b. The term "person" shall mean an individual, or group of persons, exchange, firm, co-partnership, corporation or association.

c. The term "Commissioner" shall mean the Commissioner of Agriculture of the State of Montana.

Sec. 2443.4. License to engage in the business of a dealer at wholesale within the State of Montana shall be issued by the Commissioner to such reputable persons as shall apply therefor, pay the prescribed fee and comply with the conditions herein specified, to-wit:

a. The application shall be in writing, accompanied by the prescribed fee, and under oath and shall set forth the place where the applicant in-

tends to carry on the business for which the license is desired, and a separate license shall be required for each place of business, and for the purpose of this Act each truck used for assembling and distributing produce other than from a permanently established place of business through which all business of sales and accounts are handled shall be considered a separate place of business; the estimated amount of business to be done monthly; the full names of the persons constituting the firm, in case the applicant is a copartnership; the name of the officers of the corporation and where incorporated, if a corporation; and a financial statement showing the value and character in a general way of the assets and the amount of liabilities of the applicant.

b. Before issuing any license as provided by this Act, the Commissioner shall require the applicant to execute and file with him a good and sufficient bond to the State of Montana in an amount to be fixed by the Commissioner based on the monthly business to be transacted by the applicant. Said bond to be not less than one thousand dollars ($1,000.00). The Commissioner may from time to time require additional bond should the business transacted warrant such increase under penalty of revoking the license. Said bond to be executed by the applicant as principal and a surety company authorized to do business in this state as surety; the form thereof to be fixed by the Commissioner, conditioned for the faithful performance of his duties as a dealer at wholesale; for the observance of all laws relating to the carrying on of the business of a dealer at wholesale; for the payment, when due, of the purchase price of produce purchased by him; for the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission and the prompt payment to persons entitled thereto of the

proceeds of such sales less lawful charges, disbursements and commission. Such bond shall cover all wholesale produce business transacted in whole or in part within the State of Montana.

c. All licenses shall expire December 31st of each year; the license, or a certified copy thereof, shall be kept posted in the office of the licensee at each place within the state where he transacts business; the fee for each license shall be one hundred dollars ($100.00) and for each certified copy thereof one dollar ($1.00). Except that where a truck is the place of business the license fee for the first truck shall be one hundred dollars ($100.00) and for each additional truck fifty dollars ($50.00).

d. The applicant shall file with the Commissioner a schedule of his commissions and charges for service in connection with produce handling on account of or as agent for another.

Sec. 2443.5. The Commissioner shall examine such application and cause an investigation to be made of said applicant and his business, business rating, character and reputation. If, from such examination and investigation the Commissioner shall determine that the said applicant is in the matter of his business, business rating, character and reputation not properly qualified to engage in business as a dealer, he shall refuse to grant a license and shall deny the application, and notify the applicant in writing of his decision. Any applicant whose application is denied by the Commissioner may within ten days after the mailing of such notice of rejection, petition said Commissioner for a hearing and thereupon said Commissioner shall afford applicant an opportunity for a hearing on a date not less than ten (10) nor more than twenty (20) days after the receipt of said petition. Any and all persons who may have objected to the licensing of applicant shall be given

at least (10) days' notice of said hearing by mail. Said hearing shall be informal and the Commissioner shall hear any and all evidence which may be offered or adduced either for or against said applicant, in the matter of his business, business rating, character and reputation. After hearing all such evidence, the Commissioner shall make his findings of fact on which he may again deny the said application or grant the same as he finds the facts to be, and the said findings of fact made by the Commissioner shall be conclusive, subject, however, to the right of appeal as hereinafter provided.

Sec. 2443.6. Every dealer in produce shall make and keep a full and complete record of all produce handled by him covering the following facts:

a. The name and address of the producer or shipper.

b. The date of receipt of each consignment.

c. The kind and quantity of produce received.

d. The agreed purchase price or commission charged.

e. Date of sale.

f. Price at which sold.

g. The name of the person, firm, or corporation to whom sold.

h. An itemized statement of charges to be paid by the producer in connection with the sale.

i. The above information and record shall be open for confidential inspection of the Commissioner or his deputies.

Sec. 2443.7. Whenever any dealer at wholesale, to whom produce has been shipped, or consigned for sale on a commission basis, or on consignment or under any circumstances wherein the title to

said produce remains with the shipper, has received the same, he shall within a reasonable time thereafter, make a written report to the shipper, which report shall include the exact time of arrival; the quantity and quality of the produce; and in the event such produce is received in a decayed or damaged condition noticeable upon arrival, the dealer shall have the common carrier or Horticultural Inspector of the State of Montana make proper record certifying such condition; and the dealer shall notify the consignor promptly so that the consignor can take further action to verify the report.

Sec. 2443.8 For the purpose of enforcing the provisions of this Act, the Commissioner upon his own motion may, or upon verified complaint against any dealer or any person, firm, exchange, association, or corporation assuming or attempting to act as such, shall have full authority to, and must make any and all investigations he deems necessary, and he shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportation or any other facilities or places in which any produce is kept, stored, handled or transported. If the Commissioner, upon investigation, shall have reason to believe that any dealer is not acting in accordance with the provisions of this Act, or upon the filing of a verified complaint against any dealer, it shall be the duty of the Commissioner to have personal service made on said dealer or to mail by registered mail a complaint, or a copy of the verified complaint against said dealer, and in the event the dealer fails to make informal adjustment or settlement of the charges set forth therein, to the satisfaction of the Commissioner, the Commissioner shall give notice of the time and place of a formal hearing thereon. Notice of any hearing shall be given at least twenty (20) days prior thereto and said hearing shall be held in the

city or town in which the transaction complained of is alleged to have occurred.

He shall have full authority to administer oaths and take testimony hereunder; to issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders of subpoenas of said Commissioner shall be guilty of contempt and shall be certified to any district court of the state, which court shall punish any such contempt. Copies of records, inspection certificates, certified reports and all papers on file in the office of the Commissioner shall be prima facie evidence of the matters therein contained.

At the time and place appointed for such hearing, the Commissioner shall hear all parties and their evidence and thereupon the Commissioner shall dismiss the charges, or suspend the license of said dealer for a specified period, or revoke the same, or make such other appropriate order as may be deemed just and proper; any order shall specify the effective date thereof and any order other than the one suspending or revoking a license shall automatically suspend such license until such order is complied with.

Sec. 2443.9. The Commissioner shall keep a full and complete record of all proceedings and hearings had before the Commissioner of any formal hearing, and all testimony produced before the Commissioner shall be taken down by a stenographic reporter appointed by the Commissioner, and the party shall be entitled to be heard in person or by attorney. In case of an action to review any order or decision of the Commissioner a transcript of such testimony together with all exhibits and of the pleadings, records, and proceedings in the cause shall constitute the record

Sec. 2443.10. Any action of the State Commissioner of Agriculture with reference to the granting of, or the refusal to grant, or to renew any license, or with reference to the revocation or suspension of any license granted under the provisions of this Act, be reviewed upon appeal to any district court of the State of Montana, but pending final determination of any such review, in the case of the revocation of or refusal to renew the license of any produce dealer, such license shall be deemed in full force and effect until the final determination of such proceedings; provided, that no license shall be refused during the time or on account of the dependency of any review proceedings.

Sec. 2443.11. Within thirty (30) days after the rendition of the decision by the Commissioner and within twenty (20) days after notice thereof any party affected thereby may appeal to the district court of the judicial district of the State of Montana, in and for the county in said state wherein said transaction occurred or the dealer may have his place of residence, or if such dealer be a corporation may have its principal office or place of business, and said appeal shall be for the purpose of having the lawfulness of the original order or decision of the Commissioner inquired into and determined.

Sec. 2443.12. Said appeal shall be taken by serving a written notice of said appeal on the Commissioner, which said service shall be made by the delivery of a copy of such notice to said Commissioner and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon the adversary party, if there be any, by mailing the same to the said adversary party to such address of said party. The order of filing and serving of said notice is immaterial.

Immediately upon service upon said Commissioner of said notice the said Commissioner shall certify to said district court the entire record of proceedings including all testimony and evidence taken by said Commissioner, with the clerk of said district court. Upon said appeal said district court shall act as a court of review.

Sec. 2443.13. The Commissioner shall have power and it shall be his duty from time to time to make and publish uniform rules and regulations not inconsistent with the law for carrying out and enforcing the provisions of this Act.

Sec. 2443.14. The Commissioner shall cooperate with the United States Department of Agriculture and with other federal authorities, and with the state and municipal authorities of this and other states, and do and perform such other acts and things as may be necessary and proper in carrying out the purposes of this Act.

Sec. 2443.15. All sums received by the Commissioner for license fees under the provisions of this Act shall be paid into the State Treasury and deposited in the special fund known as the "Revolving Fund of the Division of Horticulture" to be expended by the Chief of said Division upon approval of the Treasurer of the State of Montana, and all moneys so deposited shall be held subject to the uses of the Chief of the Division of Horticulture for the purpose of carrying out the provisions of this Act.

Sec. 2443.16. Any person who shall violate any of the provisions of this Act, or who shall fail to comply with the regulations prescribed by this Act, or who shall fail or neglect to obey any lawful order of the State Department of Agriculture, or the Commissioner, or any other officer thereof made pursuant to the authority of this Act, shall be guilty of a misdemeanor and upon conviction

thereof shall be punished by a fine of not less than twenty-five dollars ($25.00) and not more than five hundred dollars ($500.00), or by imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, and such fine shall be paid into the state treasury and deposited as provided in Section 2443.15; provided, however, that nothing in this Act shall apply to a consumer or group of consumers acting cooperatively in obtaining produce for their own use only and not for resale.

MONTANA DEPARTMENT OF AGRICULTURE
DIVISION OF HORTICULTURE,
MISSOULA, MONTANA.

Regulations Governing the Enforcement of Chapter 229 of Revised Statutes of 1935.

For the purpose of the enforcement of said Act the following regulations are hereby adopted as authorized in Section 2443.13 of said Act:

Regulation No. 1. The term "wholesaler" as used in Section 1 of the said Act is hereby defined, in accordance with numerous court decisions, to be "a dealer who sells commodities in quantities larger than are usually sold to a consumer, or for the purpose of resale."

Regulation No. 2. The record requirements mentioned in Section 2443.6 of said Act may be maintained in any form desired by the licensee, PROVIDED it furnish the information specified in paragraph "a" to "i" both inclusive.

Regulation No. 3. The term "within a reasonable time" as used in Section 2443.7 of this Act covers the notice of receipt to be given the shipper of produce on consignment and is hereby interpreted to mean within three (3) days of receipt of consignment.

Regulation No. 4. In all instances where a party is allowed a hearing under the provisions of said Act, and in all cases where an appeal lies under the provisions of this Act, the party to whom such hearing is granted and the appellant in cases of appeal to the District Court, shall before such hearing is held, and at the time of filing of notice of appeal file with the Commissioner in the case of a hearing, and with the Clerk of the District Court in the case of an appeal, a surety bond in the sum of $300.00 signed by the party as principal and a surety company qualified and authorized to do business in the State of Montana, conditioned upon the payment of all costs and expense, including the cost of taking and transcribing of all testimony, provided such hearing or appeal is terminated adversely to such party.

Regulation No. 5. Notice of the formal hearing provided in Section 2443.8 of said Act shall be given by personal service upon or by registered mail to the dealer and all parties interested.

Regulation No. 6. All duties imposed upon and all powers granted to the Commissioner by said Act are hereby made the duties and powers of the Chief of the Division of Horticulture.

A. H. STAFFORD,
Commissioner of Agriculture.

GEORGE L. KNIGHT,
Chief, Division of Horticulture.

Chapter 214, Laws of 1939.

ITINERANT MERCHANTS ACT

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. For the purpose of this act, "itinerant merchant" shall mean any person who buys, or offers to buy, or sells, or offers to sell, in this state, at wholesale or retail any produce as defined by Section 2443.3 of the Revised Codes of Montana, 1935, who does not hold a license under the provisions of Chapter 229 of the Revised Codes of Montana, 1935, and transports the same in this state by use of a motor vehicle, or by any other method of transportation, except as herein otherwise provided, or who has not secured the permit of exemption herein provided.

Section 2. "Established place of business," for the purpose of this act, shall mean any permanent warehouse, building, or structure, at which a permanent business is carried on as such in good faith and not for the purpose of evading this Act, and at which stocks of the property being transported are produced, stored or kept in quantities reasonably adequate for, and usually carried for, the requirements of such business, and which is recognized, licensed and taxed as a permanent business at such place, and shall not mean residences, tents, temporary stands or other temporary quarters, any railway car, nor permanent quarters occupied pursuant to any temporary arrangement.

Section 3. The term "itinerant merchant" shall not mean or include the following:

(1) A person using a motor vehicle owned by him, whether operated by him or his agent, for the transportation of produce produced by him on owned or leased premises, when the entire course

of such transportation extends not more than one hundred fifty (150) miles from his residence, whether such residence be within or without this state.

(2) Any person handling produce grown by him as herein provided who shall have secured from the Commissioner of Agriculture, Labor and Industry before offering any such produce for sale, a permit of exemption. Such permit shall be issued by the Commissioner of Agriculture upon application and payment of a fee of one dollar ($1.00), provided the applicant shall, in the discretion of the Commissioner of Agriculture, be able to satisfactorily show that he will sell, or offer for sale, only produce of his own production; and when and if issued shall permit the sale of only such produce, and shall be forfeited at any time the holder of such permit of exemption shall sell, or offer to sell any produce not of his own production.

(3) A person transporting property owned by him in a motor vehicle owned by him, whether operated by him or his agent, when such transportation is incident to a business conducted by him at an established place of business operated by him, either within or without this state, and when said property is being transported to or from an established place of business, operated by him in this state.

(4) A person transporting property for his own consumption or use and not for sale.

Section 4. No person shall be exempt from the requirements of this act unless he or the driver of the motor vehicle upon which his property is being transported, shall, upon the request of any peace officer or any person charged with the enforcement of this act, including all employes of the Department of Agriculture, Labor and Industry, execute an affidavit containing such facts as the

Commissioner of Agriculture, may, in his discretion, require, and deliver the same to said peace officer or such employee. Such affidavit must clearly show that the person claiming the exemption is entitled to one or more of the exemptions provided in this Act.

Section 5. No person shall engage in business as an itinerant merchant, as defined by this Act, without obtaining from the Commissioner of Agriculture the license herein required.

Section 6. An application for a license to engage in business as an itinerant merchant shall be made to the Commissioner of the Department of Agriculture, Labor and Industry upon forms to be prepared by him.

A separate application and license shall be required for each motor vehicle to be operated. Such application shall contain such facts as the Commissioner of Agriculture shall require. The fee for each license shall be one hundred dollars ($100.00) for the calendar year in which it is issued, and each license shall expire at the end of the calendar year in which issued. The proper fee shall accompany the application. The application shall be signed and sworn to by the applicant.

Section 7. No license shall be issued until the applicant shall have filed with each application, and the same has been approved by the Commissioner of Agriculture, a surety bond issued by a company authorized to do business in the state in the penal sum of not less than one thousand dollars ($1,000.00) in such form as may be prescribed by the Commissioner of Agriculture conditioned upon the delivery of honest weights, measures, or grades, accurate representation as to quality or class of produce, the actual payment of checks, drafts or other obligations delivered by the itinerant merchant in exchange for the purchase of such

produce, and the payment of all obligations incurred by him for the purchase of the same.

Section 8. Upon the approval of the application and bond and upon compliance with the terms of this Act, the Commissioner of Agriculture, Labor and Industry shall issue to the applicant a license as an itinerant merchant in such form as the Commissioner of Agriculture may prescribe. Such license shall at all times be carried by the driver of the motor vehicle described and shall at all times be subject to inspection by any person.

Section 9. No license issued pursuant to this Act may be sold or transferred, and no license may be transferred from one vehicle to another, without the written consent of the Commissioner of Agriculture.

Section 10. Upon such notice and hearing as the Commissioner of Agriculture may deem proper, he may revoke any license issued under the provisions of this Act for failure to comply with any of the laws of this state.

Section 11. The Commissioner of Agriculture, Labor and Industry shall make and enforce such rules for the administration of this act as he may deem necessary and proper.

Section 12. Any motor vehicle operated in violation of this Act shall be kept in the custody of any person authorized to enforce any of the laws of this state, or in the custody of any person authorized to enforce this act including all employes of the Department of Agriculture, Labor and Industry, and shall not be operated except under his or their authority and solely for the purpose of taking it to the nearest convenient place of custody, until the provisions of this Act have been complied with.

Section 13. All sums received from license fees under this act by the Commissioner of Agriculture,

shall be by him deposited with the State Treasurer, and shall be used to defray the cost of administration and enforcement of this Act.

Section 14. Nothing in this Act shall be construed to repeal or amend any statute delegating authority to any county or municipal corporation to license, tax, or regulate peddlers or itinerant merchants. This act shall not be construed as repealing or amending any of the provisions of Chapter 229 of the Revised Codes of Montana, 1935.

Section 15. Any person violating any provision of this Act shall be guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25.00) and not more than two hundred dollars ($200.00).

Section 16. It is hereby declared the intention of the legislature that no section, paragraph, sentence, clause, phrase or word of this Act is an inducement to the enactment of any other part or portion of the same; and if any part or portion of this Act should be held by any court of competent jurisdiction to be unconstitutional, such decision shall not affect the validity of the remainder of this Act.

Section 17. This Act shall be in full force and effect from and after its passage and approval.

Rules and Regulations Covering the Administration and Enforcement of Chapter 214, Session Laws of 1939.

REGULATION NO. ONE, SECTION 3.

(1) The term "one hundred and fifty miles" shall be construed to mean the distance necessary for transportation of the produce from point of origin to place of delivery along the shortest established and maintained road or highway.

REGULATION NO. TWO, SECTION 3.

(2) "Produce of his own production" shall mean produce actually grown by him upon owned or leased premises.

"Leased premises," for the purpose of this act, shall mean premises over which the lessee has complete jurisdiction for the crop season.

The term "actually grown" as used in this regulation, shall mean that the applicant, or those actually in his paid employ, shall have done all things necessary to the production of such crops or produce, including irrigation, planting, pruning, and harvesting, throughout the entire crop season.

A certified copy of the lease shall accompany the application.

REGULATION NO. THREE, SECTION 3.

(3) A motor vehicle shall not be held to be "owned by him" unless the alleged owner shall produce a proper certificate of title.

REGULATION NO. FOUR, SECTION 3.

(2) All permits shall expire, unless earlier revoked, on December 31st of the year in which issued.

REGULATION NO. FIVE, SECTION 11.

It is hereby made the duty of the Chief of the Division of Horticulture to administer and enforce the provisions of this act, subject, however, to the supervision and control of the Commissioner of Agriculture, Labor and Industry, and all funds by him collected hereunder shall be by him deposited with the State Treasurer for the benefit of the Horticulture Revolving Fund.

J. T. SPARLING,
(SEAL) Commissioner of Agriculture.

Dated at Helena, Montana, this 20th day of March, 1939.

Sections 3633.1 to 3633.10, Inclusive, of the Revised Statutes of 1935.

An Act to Regulate the sale of, and to Fix Standard Grades for Farm Products; to Provide for Inspection, Branding and Labeling Thereof; Defining Certain Terms; Conferring Certain Powers upon the Commissioner of Agriculture; and Fixing Certain Penalties for the Violation Thereof, and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Sec. 3633.1. The standard grades for Montana farm products shall be limited to the United States grades covering the same products and shall conform in all respects and be identical with the latest standards established by the United States Secretary of Agriculture for the various commodities, and thus conforming shall be accepted as the legal standards for the State of Montana.

Sec. 3633.2. The following terms, whenever used in this Act, or in rules and regulations later promulgated by the Commissioner of Agriculture, shall have the meaning as indicated:

(a) "Commissioner" shall mean the Commissioner of Agriculture of the Montana Department of Agriculture.

(b) The term "Farm Products" shall mean all products of the farm intended for table use and also to include beans; but shall not include livestock and its by-products; poultry and its products; apiary products; dairy products; grain and apples.

(c) "Container" or "package" shall mean cloth or fibre sacks, barrel, box, crate, carton, hamper, or baskets, such as are customarily used for the shipment of farm products.

(d) "Person" as used herein shall mean any grower, dealer, shipper, society, association, or-

ganization, corporation, or their agents or representatives.

Sec. 3633.3. (a) The Commissioner of Agriculture shall at once establish in the manner provided by this Act, United States standard grades on strawberries, potatoes, onions, head lettuce, cabbages, beans and shall thereafter, as soon as any agricultural product shall have reached a volume rendering it of market importance, establish United States grades on same.

(b) The Commissioner of Agriculture shall establish grades by proclamation, giving thirty (30) days' notice of such action, and shall publish such proclamation two (2) times in at least three (3) papers of general circulation within the state.

Sec. 3633.4. (a) It shall be unlawful for any person, firm, association, organization, corporation or their agents or representatives or assistant of any person, firm, association, organization or corporation to pack for sale, expose for sale, or sell, transport, deliver or consign, or have in possession for sale, transport, delivery or consignment in interstate or intrastate commerce, farm products prepared for market which are not graded and branded to meet the requirements of the grade declared. The grade declared shall conform to the provisions of this Act.

(b) Provided that farm products not conforming to established grades may be sold if labeled, tagged or branded in the same manner as graded products, except that in place of specifying the grade, the word "culls" or "unclassified" shall be used.

(c) Provided that all products branded "unclassified" must contain at least fifty per cent (50%) of products which would grade U. S. No. 2 or better.

(d) Provided further that farm products for

seed purposes may be sold when graded under rules approved by the Commissioner of Agriculture and plainly labeled, tagged or branded "For Seed Purposes."

(e) Provided further that U. S. commercial grade shall not be a standard grade in the State of Montana.

(f) That potatoes graded to contain one-half (50 per cent) that shall meet all the requirements of U. S. No. 1, and the remaining one-half that shall meet the size requirements of U. S. No. 1 and the quality requirements of U. S. No. 2 grade, may be classified and sold as Montana combination grade. This grade may not contain more than five per cent by weight, that are below the prescribed size, nor more than six per cent that are below the quality requirements of the U. S. No. 2 grade, nor more than one per cent affected by soft rot. Provided further, that none of the named tolerances shall apply to the one-half that meet all the requirements of the U. S. No. 1, but shall apply only to the remaining half.

Sec. 3633.5. (a) It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession farm products prepared for market unless each container has been legibly and conspicuously tagged, branded, labeled or stenciled before being moved from the premises of the person or persons responsible for the grading and packing, and the name of the grade, together with the true net contents expressed in weight.

(b) When tags are used U. S. No. 1 grade shall be declared on a WHITE tag, and U. S. No. 2 grade shall be declared on a RED tag. Bulk shipments shall be accompanied by two (2) cards not

less than four by six inches (4″x6″) in size, placed on the inside of the car near each door. Likewise cards in size herein described shall be prominently placed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, the name of the loading station, the date of loading and the name and address of the consignee, if known. It shall be conclusive evidence that the farm products are deemed for sale when the containers are packed for delivery or transit, or when same are exposed for sale, or when same are in process of delivery or transit, or located at a depot, station, boat dock, or any place where farm products, or other products are held for storage, or for immediate or future sale or transit.

Sec. 3633.6. Farm products held in storage or in transit which at the time of inspection show deterioration or decay, but otherwise up to the grade, shall be inspected as to condition and not as to grade.

Sec. 3633.7. The Commissioner of Agriculture is hereby charged with the enforcement of this Act and is given power unto himself and to his duly appointed representatives to enter into and upon the premises where farm products are graded or packed, or stored to inspect the same as to grade, pack and condition.

Sec. 3633.8. The Commissioner of Agriculture may promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this Act.

Sec. 3633.9. The intent and purpose of this Act is to regulate the sale of farm products for table use intended for interstate or intra-state commerce when such is made by the grower, dealer or distributor, or any other person either by whole-

sale or retail or in any other manner; provided, however, that the provisions of this Act shall not apply to the grower in the sale of the farm products grown by himself or to small retail packages.

Sec. 3633.10. Whoever violates this Act by not grading farm products as herein required, or by not tagging or branding containers as herein required, or by removing or altering any tag or brands placed upon or attached to any containers as in this Act required, unless ordered to do so by the Commissioner of Agriculture, or his duly appointed representative or representatives, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten ($10.00) Dollars nor more than One Hundred ($100.00) Dollars, or by imprisonment in the county jail not less than thirty (30) days nor more than three (3) months, or by both such fine and imprisonment in accordance with the discretion of the court.

MONTANA DEPARTMENT OF AGRICULTURE
DIVISION OF HORTICULTURE.
MISSOULA, MONTANA.

Sections 3633.1 to 3633.10, Inclusive of Revised Statutes of 1935.

For the purpose of enforcement of said Act the following regulations are hereby adopted as authorized in Section 8 of said Act:

Regulation No. 1. The term "farm products" as used in paragraph "b" of Section 2 of this Act is hereby interpreted to mean all fruits and vegetables intended for human consumption.

Regulation No. 2. The term "legibly and conspicuously" as used in paragraph "a" of Section

5 of this Act is hereby interpreted to mean printing or writing which is large enough and legible enough to be easily read by anyone.

Regulation No. 3. The term "sale of farm products grown by himself" as used in Section 9 of this Act is hereby interpreted to mean direct sales from producer to consumer and not produce sold for resale.

Regulation No. 4. All duties imposed upon and all powers granted to the Commissioner by this Act are hereby made the duties and powers of the Chief of the Division of Horticulture.

A. H. STAFFORD,
Commissioner of Agriculture.

GEORGE L. KNIGHT,
Chief, Division of Horticulture.

A PROCLAMATION.

Pursuant to the authority vested in me by Section 3 of Chapter 165 of the Montana Session Laws of 1933, I, A. H. Stafford, Commissioner of Agriculture, Labor and Industry for the State of Montana, do hereby proclaim and establish United States Standard grades on strawberries, potatoes, onions, head lettuce, cabbages and dry beans; and on and after thirty (30) days from the date of this proclamation such grades shall be the legal standard grades on the above mentioned commodities for the State of Montana covering both the interstate and intrastate movement.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of March in the year of our Lord nineteen hundred and thirty-three.

A. H. STAFFORD,
Commissioner of Agriculture,
Labor and Industry.

A PROCLAMATION

Pursuant to the authority vested in me by Section 3 of Chapter 165 of the Session Laws of 1933, I, A. H. Stafford, Commissioner of Agriculture, Labor and Industry for the State of Montana, do hereby proclaim and establish United States standard grades on apricots, beans (string, wax and green), cantaloupes, carrots, cherries (sour and sweet), corn, (green), cucumbers, oranges, peas (green), pears, peaches, plums and prunes, tomatoes and watermelons; and on and after thirty (30) days from the date of this proclamation such grades shall be the legal standard grades on the above mentioned commodities for the State of Montana, covering both the interstate and intrastate movement.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of April in the year of our Lord nineteen hundred and thirty-three.

A. H. STAFFORD,
Commissioner of Agriculture,
Labor and Industry.

Section 3633.11 of Revised Statutes of 1935.

An Act to Regulate Advertising of Agricultural Products; Providing for Grade to be Quoted in Advertisements and Providing for a Penalty for Violation Thereof; and Repealing All Laws in Conflict Herewith.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

3633.11. That all advertised prices on agricultural products, on which grades have been established by law, in this state, whether in newspapers, circulars, bills, placards, signs or in any other manner shall in addition to the price quoted show the true grade of the product as provided by law;

provided, that price tags exhibited in a place of business upon exposed products shall not be considered advertising under the provisions of this Act.

Sec. 3633.12. Any person, firm or corporation failing to comply with Section 3633.11 of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten dollars ($10.00) or more than Twenty-five dollars ($25.00).

BEAN DEALERS

REVISED CODES OF 1935

An Act Defining, Licensing and Regulating Dealers Engaged in Buying, Selling, Warehousing or Storing Beans: Defining the words "Commissioner," "Warehouseman" or "Person," "Beans" and "Storage" or "Warehousing"; Defining Transactions in Beans; Providing for Licenses and Date of Expiration, Amount Thereof and Disposition of Fees; and Providing for Appeal; Providing for Bonds and Amount Thereof and Fixing Conditions and Providing for Recovery Thereunder; Providing for Inspection; Establishing Grades; Providing for Records and Reports; Prescribing Powers and Duties of the Commissioner of Agriculture; Providing for Penalties for Violation of Act; and Providing for Repealing of Chapter 55 of the Session Laws of 1933 and All Acts and Parts of Acts in Conflict Herewith.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Sec. 3592.54. The provisions of this Act shall be administered and enforced by the Commissioner of Agriculture of the State of Montana.

Sec. 3592.55. The following terms and words whenever used in this Act, or in the rules and regulations later promulgated by the Commissioner shall have the meaning as indicated.

(a) The word "Commissioner" shall mean the Commissioner of Agriculture of the Montana Department of Agriculture.

(b) The words "Warehouseman" or "person" shall mean dealer, shipper (except grower), society, association, organization, corporation or their agents or representatives.

(c) The word "beans" shall mean all varieties of the bean family (except green beans) whether grown or purchased for seed, feed or human consumption.

(d) The words "storage" or "warehousing" shall mean any method by which beans are held for any party, other than direct ownership, by the party doing the storing.

Sec. 3592.56. This Act shall cover all transactions in beans and they shall not be handled, purchased, sold or stored under the provisions of any grain act.

Sec. 3592.57. All persons engaged in the business of buying and selling at wholesale or warehousing and storing beans, or receiving or soliciting beans for purchase, sale or storage either within or without the State of Montana shall, before engaging in such business, procure a license from the Commissioner and shall pay a license fee to the Department of Agriculture of Montana in the sum of Fifteen Dollars ($15.00), which shall be deposited with the Treasurer of the State of Montana and credited to the special fund known as the "Revolving Fund of the Division of Horticulture" to be expended by the Chief of the said Division upon approval of the Treasurer of the State of Montana, and all moneys so deposited shall be held subject to the uses of the Chief of the Division of Horticulture for the purpose of carrying out the provisions of this Act. Said licenses shall be renewed annually and the prescribed fee shall be paid annually. All licenses shall be issued for the fiscal year or fraction thereof and ending June 30th next following.

Sec. 3592.58. The Commissioner shall prescribe forms for application for such licenses and shall require from the applicant such facts and information as he may determine and as may seem ap-

propriate to carry out the provisions of this Act. The applicant must satisfy the Commissioner as to his qualifications, warehouse and storage facilities, experience and financial ability to carry on the business of buying, selling, warehousing and storing, and upon furnishing evidence thereof satisfactory to the Commissioner he may be granted or refused a license. Provided that if license is refused by the Commissioner appeal may be made in accordance with the provisions in Sections 2443.5, 2443.9, 2443.10, 2443.11 and 2443.12 of these codes.

Sec. 3592.59. Every person applying for a license to engage in such business of buying, selling, warehousing or storing beans in accordance with this Act shall, as a condition precedent to the granting thereof, execute and file with the Commissioner a good and sufficient surety bond in the sum of Five Thousand Dollars ($5,000.00) to the State of Montana, executed by a responsible surety company licensed to do business in this state, to be approved by the Commissioner, conditioned upon the faithful performance of his obligations as a bean dealer or warehouseman under the laws of this state and as prescribed in this Act, and of such additional obligations as may be assumed by him under contract with the respective depositors of the beans with him. The Commissioner may from time to time require additional bond under penalty of revoking the license. Said bond shall otherwise be in such form and shall contain such additional conditions as the Commissioner may prescribe to carry out the purposes of this Act, and may, in the discretion of the Commissioner, include the requirements of fire insurance.

Sec. 3592.60. Any person injured by the breach of any obligation to secure which a bond is given, as in this Act provided, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may

have sustained in such breach, or where more than one (1) person has been so injured, the action may be brought in the name of the State of Montana on behalf of all such injured persons.

Sec. 3592.61. The Commissioner shall charge, assess and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this Act to be paid to the State Department of Agriculture and deposited as provided in 3592.57 of this Act, provided that such fee shall not exceed Ten Dollars ($10.00) per annum.

Sec. 3592.62. Every dealer in beans shall make and keep a full and complete record of all beans handled by him covering the following facts:

a. Name and address of the producer or shipper.

b. Date of receipt.

c. Kind, quantity, quality and grade of beans received.

d. Agreed purchase price if purchased.

e. Agreed storage price if stored.

f. Agreed commission charged if consigned.

g. Date of sale, to whom sold and price.

h. Date and details of settlement with vendor or consignor.

The above records shall be open to the confidential inspection of the Commissioner or his authorized agents at all times. Every warehouseman shall issue a receipt for all beans received for storage on a form approved by the Commissioner as provided in Section 3592.63.

Sec. 3592.63. The Commissioner shall prescribe such rules and regulations as he may deem necessary for the safe conduct of the business referred to in this Act, including a scale of storage charges and storage receipts and to that end may,

if he deems it necessary, require reports from any warehouseman or person receiving stored beans on blanks or forms that may be prepared by the Commissioner.

Sec. 3592.64. All beans accepted for storage shall first be graded according to the Standards of the United States Department of Agriculture and the grade so established shall be noted and specified upon the warehouse receipt issued for such beans.

Sec. 3592.65. The storage of beans under the terms of this Act shall constitute a bailment and upon the return of the warehouse receipt properly endorsed, and upon the payment or tendor of all advances and legal charges, the holder of such warehouse receipt shall be entitled to, and it shall be compulsory for the warehouseman to deliver the identical grade and amount of beans so placed in storage. Every dealer, under the provisions of this Act, shall maintain at all times in original storage beans equal in amount and grade to all storage certificates issued, unless authorized in writing by holders of receipts or by the Commissioner, to move to other storage, and failure to do so shall constitute a conversion.

Sec. 3592.66. Every warehouseman or person operating under this Act shall keep in a place of safety completely and correct records of all beans stored by him and of all beans withdrawn from storage; of all warehouse receipts issued by him: and of all the receipts returned to and cancelled by him; and shall make such reports to the Commissioner concerning such matters as may be required by the Commissioner by rules and regulations established by him.

Sec. 3592.67. For the purpose of enforcing the provisions of this Act, the Commissioner upon his own motion may, or upon verified complaint against any dealer or any person, firm, exchange, association or corporation assuming or attempting

to act as such, shall have authority to, and must make any and all investigations he deems necessary, and he shall at all times have free and unimpeded access to all buildings, yards, warehouses. storage and transportation or any other facilities or places in which beans are kept, stored, handled or transported. If the Commissioner, upon investigation, shall have reason to believe that any dealer is not acting in accordance with the provisions of this Act, or upon the filing of a verified complaint against any dealer, it shall be the duty of the Commissioner to have personal service made upon said dealer, or to mail by registered mail a complaint, or a copy of the verified complaint against said dealer, and in the event the dealer fails to make formal adjustment or settlement of the charges set forth therein, to the satisfaction of the Commissioner, the Commissioner shall give notice of the time and place of a formal hearing thereon. Notice of any hearing shall be given at least twenty (20) days prior thereto and said hearing shall be held in the city or town in which the transaction complained of is alleged to have occurred.

He shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation; and all parties disobeying the orders of subpoenas of said Commissioner shall be guilty of contempt and shall be certified to any district court of the state, which court shall punish any such contempt. Copies of records, inspection certificates, certified reports and all papers on file in the office of the Commissioner shall be prima facie evidence of the matters therein contained.

At the time and place appointed for such hearing the Commissioner shall hear all parties and

their evidence and thereupon the Commissioner shall dismiss the charges, or suspend the license of the dealer for a specified time, or revoke the same, or make such other appropriate order as he may deem just and proper; any order shall specify the effective date thereof and any order other than the one suspending or revoking a license shall automatically suspend such license until such order is complied with. Provided, that an appeal may be made from the decision of the Commissioner according to the provisions of Sections 2443.5, 2443.9, 2443.10, 2443.11 and 2443.12 of these codes.

Sec. 3592.68. Any person who shall engage in or carry on any business or occupation for which a license is required by this Act without first having obtained a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked or expired, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less that Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense. Any person who shall otherwise violate any of the provisions of this Act, or shall by any manner or means convert to his own use, or that of another, any beans so stored or accepted for storage shall, if the value of such converted beans exceed Five Hundred Dollars ($500.00), be deemed guilty of a felony; and if the value is less than Five Hundred Dollars ($500.00) be deemed guilty of a misdemeanor, and in either case upon conviction, shall be punished by fine or imprisonment, or both, as otherwise provided by law.

REGULATIONS FOR BEAN WAREHOUSING

Under Sections 3592.54 to 3592.68 of the Revised Codes of 1935.

1. The inspection fee as provided in Section 3592.61 shall be $2.50 for each inspection but shall not exceed $10.00 for any fiscal year.

2. A monthly report shall be rendered by each warehouseman on form prescribed and furnished by the Commissioner of Agriculture giving full details called for on said form and must be furnished not later than the 10th day of the succeeding month.

3. Stored beans are hereby defined as beans held or placed in storage in an elevator, bean cleaning plant, bean warehouse or other public warehouse of whatever kind by any person or any business concern that is not the actual bona fide owner of said beans.

4. All warehouse receipts and scale tickets issued for stored beans shall be in the form prescribed by the Department of Agriculture, copies of which may be obtained upon application. Before any warehouse receipts or scale tickets are issued each bean warehouseman shall submit to the Department of Agriculture two copies of the warehouse receipt and scale ticket forms; one copy to be filed in the office of the Division of Horticulture of the Department of Agriculture at Missoula and the other to be returned to the warehouseman with approval or correction. When warehouse receipts or scale tickets are made out upon duplicate or triplicate forms the original copy shall be the warehouse receipt or scale ticket, and the other copies shall have plainly printed across the face the words "Duplicate" or "Not Negotiable," or in some equally distinct manner show they are not the original. Each warehouse receipt or scale ticket issued must plainly show the

amount of any cash, or the value of any merchandise, the warehouseman has advanced on the beans represented by the receipt or ticket but such notation shall not be construed as fixing the date of sale of such beans.

5. All beans which constitute a distinctly separate lot and are delivered by any one for storage in a warehouse or cleaning plant shall be assigned a warehouse lot number; said lot numbers shall be assigned in consecutive order and the same number shall not be assigned to more than one lot of beans. Beans of different grades, even when owned by the same person, shall be given separate warehouse lot numbers. All the bags in any lot shall be plainly marked or stamped with its number.

6. The rate per month of all charges for storing and redelivery of beans must be stated in the spaces provided for that purpose on the face of both the scale ticket and the final storage receipt.

7. Storage settlement shall not be later than June 30th of each year. If beans are to continue in storage into the new fiscal year the old storage receipt shall be taken up by the warehouseman and a new one issued for each lot thus held and each new receipt shall be dated July 1st.

8. Failure on the part of any bean warehouseman or the owner of any bean cleaning plant where any beans are held in store, for other than the owner thereof, to comply with the provisions of this Act will render the license of such warehouseman or owner of a bean cleaning plant subject to revocation and cancellation by the Commissioner of Agriculture.

9. The fee for officially grading any lot of beans placed in storage shall be paid to the inspector by the warehouseman when the grade certificate is delivered to him, but may be collected by the warehouseman from the owner of the beans.

10. The original of the grade certificates shall be delivered to the owner of the beans and a copy delivered to the warehouseman.

11. The storage charge for all beans placed in storage shall be one cent per sack per month or fraction thereof after the first fifteen days. The handling charge shall be five cents (5c) per sack, and the cleaning charge shall be 15c per hundred pounds gross and 10c per hundred pounds for each additional cleaning.

12. All duties imposed upon and all power granted to the Commissioner of Agriculture by this Act are hereby made the duties and powers of the Chief of the Division of Horticulture at Missoula, Montana.

A. P. BRUCE,
Commissioner of Agriculture.

MONTANA DEPARTMENT OF AGRICULTURE

Division of Horticulture
Missoula, Montana

REGULATION No. 13 covering Section No. 3592.54 of Chapter 229 of the Revised Codes of Montana of 1935.

All beans held under storage ticket must be insured for their full market value at all times.

(Signed) J. T. SPARLING,
Commissioner of Agriculture.

May 10, 1938.